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WAR FOOD ADMINISTRATION

[WFO 71, Amdt. 2]

PART 1595—FOOD PRIORITIES

FOOD PRIORITIES

War Food Order 71, as amended (8 F.R. 2816, 7213; 9 F.R. 4321, 4319) is hereby completely revised and amended to read as follows:

§ 1595.1 Food Priorities—(a) *Definitions.* (1) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not and includes the States or any subdivision thereof and the United States and any department, agency, or instrumentality thereof.

(2) "Food" means all commodities and products, simple, mixed, or compounded, that are or may be eaten or drunk by either humans or animals, irrespective of other uses to which such commodities or products may be put, and at all stages of processing from the raw commodity to the product thereof in a vendible form for immediate human or animal consumption, and includes all starches; sugars; tobaccos; vegetable, fish, marine animal, and animal fats and oils, whether edible or inedible, including their by-products and residues (whether resulting from refining, distillation, saponification, pressing, or settling); sulfated, sulfonated, and sulfurized fats and oils; tall oil; wool grease; soap; fatty acids; and glycerine.

(3) "Emergency order" means any contract or order for food to which a priority rating is attached or as to which the Director has issued specific directions, as provided in this War Food order.

(4) "Disposition" means the transfer of title to food by sale, gift, or any other means; the transfer of physical possession of food by delivery or otherwise, except for storage purposes; and the use of food in any process of production, manufacturing, or other use whereby the attributes of the food are changed.

(5) "Director" means the Director of Distribution, War Food Administration.

(b) *Assignment of priority ratings.*

(1) The Director may assign priority ratings to contracts, orders, or dispositions for food by means of priority rating certificates or, at his discretion, by other means. Such ratings may be assigned to dispositions under contracts or under orders prior to or after the time of placing or acceptance. Such ratings may be granted subject to conditions imposed on the use thereof by the director. The Director may also issue specific directions as to particular dispositions without assigning specific priority ratings thereto, and such directions shall take precedence over all other dispositions, regardless of any priority which may be assigned.

(2) A priority rating of FR-10 is hereby assigned to every contract of the United States Army, Navy, Coast Guard, Marine Corps (except contracts of Army and Marine Corps post exchanges and Navy and Coast Guard ship's service

stores), War Shipping Administration, or War Food Administration (including but not limited to any corporate agency thereof) for the acquisition of food, and shall automatically apply to every contract entered into by any person contracting with any one of the above agencies unless a higher priority rating is assigned to such contract by the Director.

(c) *Duration of priority ratings.* Unless an emergency order is placed within the period of time specified on the food priority rating certificate or otherwise by the Director, the rating shall expire and be without force and effect. All priority ratings may be revoked at any time by the Director. A priority rating applied or extended before the expiration date continues in effect until the food is delivered, the rating is revoked, or the emergency order is cancelled.

(d) *Extension of priority ratings.* (1) Extension of priority ratings refers to the use of the rating assigned to such an emergency order by the person filling such order, for the purpose of obtaining the food needed to fill the order or to replace food which he has taken from his inventory to fill the emergency order. No person may extend any priority rating to any of his suppliers or sub-suppliers unless the Director specifically authorizes such extension.

(2) Any person authorized to extend a priority rating shall do so only in the following manner:

(i) With respect to a written contract or order, by endorsing on or attaching to each contract or order to which the rating is extended a statement of the priority rating and a certification in substantially the form provided in Appendix A hereof, signed by an official duly authorized for such purpose.

(ii) With respect to an order placed by telegraph, by including in the telegram a certification substantially as follows:

Ratings indicated are extended pursuant to War Food Order 71.

A copy of such telegram signed by a duly authorized official shall, in every case, be furnished to the addressee thereof.

(3) Any person receiving an order or contract with such rating and certification attached shall be entitled to rely on the representations in such certification unless he knows or has reason to believe them to be false.

(4) The person authorized to extend a priority rating must place his order to which such rating is extended within the period of time specified by the Director.

(5) In extending a priority rating, no person shall order or purchase more food than needed to fill the emergency order or to replace in his inventory food used for filling the emergency order, even though he intends to cancel or reduce his orders to the correct quantity prior to delivery.

(6) No priority rating may be extended to any material other than food.

(e) *Sequence of priority ratings.*

Priority ratings under this order shall be referred to and designated as Food Priority Ratings and shall have the following order of precedence: FR-1, FR-2, FR-3, FR-4, FR-5, FR-6, FR-7, FR-8, FR-9, FR-10.

(f) *Set aside quantities of food.* Unless specifically authorized by the Director, no person shall fill any emergency order by delivering the set aside portion of any food required to be set aside by any War Food order, except to fill an emergency order of an agency named in or designated pursuant to such War Food order.

(g) *Compulsory acceptance and delivery under emergency orders.* An emergency order must be accepted and filled and all dispositions under such orders must be made, whether pursuant to contract or not, in preference to any other disposition of food to the extent necessary to meet the delivery or production schedule provided in the emergency order, except that acceptance and disposition under such order need not be made:

(1) If the disposition called for cannot be made because of the previous scheduling of emergency orders bearing higher or equal priority ratings.

(2) If the person placing such order is unwilling or unable to pay prevailing market prices (but no more than any maximum price prescribed by the Office of Price Administration) for the food ordered, or is unwilling or unable to meet regularly established terms of sale or payment: *Provided*, That there shall be no discrimination against such orders in establishing such prices or terms.

(3) If the person with whom the emergency order is placed does not have a supply of such food in sufficient quantity to fill the order, and such food is of a kind which such person is not capable of producing without substantial alteration of or addition to such person's facilities. A person may not avoid acceptance or delivery by changing the form of the food produced by him.

If the person with whom the emergency order is placed is without authority to fill the order by selling the food in his possession, he shall immediately inform the person placing the emergency order of this fact and also inform him of the name of the person having such authority. Until such time as the emergency order is withdrawn or the priority rating is revoked, the person with whom the order is placed shall not make any disposition of food meeting the specifications of the order, or which can be made to meet such specifications, except as permitted by this order: *Provided*, That as soon as the person placing the order is notified that the person with whom the order is placed is without authority to fill the order, an emergency order shall thereupon be placed with the person owning or otherwise exercising proprietorship over such food. The food priority rating applying to an order for a product shall be deemed to apply also



to the use of food to manufacture or produce such product.

Dispositions bearing no priority rating or lower priority ratings shall be deferred to the extent necessary to assure those dispositions bearing higher priority ratings, even though such deferment may cause defaults under other contracts or orders. Each person who has emergency orders on hand must schedule his production and deliveries so that dispositions thereunder will be made on the dates required, giving precedence in the case of unavoidable delay to dispositions bearing the higher rating.

(h) *Sequence of deliveries.* The sequence of disposition under emergency orders bearing the same priority rating shall be determined by the respective dates on which the emergency orders are placed, the emergency order placed first in point of time having precedence over other emergency orders. If emergency orders bearing the same priority rating are placed on the same day and it is impossible to deliver all the quantities specified on schedule, the sequence of disposition shall be determined by the delivery dates specified in the emergency orders.

(i) *Placing of emergency orders.* Emergency orders may be placed by regular or registered mail, by telegraph, or by personal service upon the person with whom the order is to be placed.

(j) *Failure to comply.* When the terms of an emergency order have not been complied with and such failure to comply appears to the person placing such order to be improper, a report shall be filed promptly with the Director setting forth the facts in connection with such failure to comply. The Director may thereupon take such action as he deems appropriate.

(k) *Allocations.* When specific allocations of a food are made by the War Food Administrator or the Director by a War Food order, unless otherwise provided by the Administrator or Director (as the case may be), such allocation shall be made without regard to any food priority ratings which have been assigned to deliveries under particular contracts or purchase orders and shall prevail over any such priority ratings.

(l) *Use of food obtained under priority ratings.* Any person who obtains a delivery of any food by the use of a priority rating or pursuant to an order of the Director under paragraph (b) must use such food for the purpose for which it was obtained with priority assistance. If it cannot be used for such purpose, for any reason, such person shall promptly file a report with the Director describing the food and the circumstances and shall make such disposition of the food as the Director may direct.

(m) *Contracts.* The requirements of this order shall be observed without regard to contracts now existing or hereafter made or any rights accrued or payments made thereunder.

(n) *Records and reports.* Every person participating in a transaction involving an emergency order shall keep and preserve accurate records sufficient to show the following details concerning all his transactions (including those not involving any food priority) in the food

named in the emergency order: (1) A copy of contracts or orders and invoices or sales slips, (2) the dates on which all orders were accepted or rejected, (3) the delivery dates requested and the dates of actual delivery, (4) a description of the food involved, (5) a record of disposition by classes, types, quantities, and values, (6) the names of parties involved in each transaction and disposition, (7) the priority rating, if any, assigned or extended to the order or contract, (8) the names of persons, if any, to whom the priority rating is extended and the quantity of food received under each extension, and (9) the priority rating certificate, if any. The records required above may be kept by preserving the usual business papers and records insofar as they provide the information required. If the food covered by the emergency order is delivered on time, the above records need cover only the period between the placing of the order and delivery and must be preserved for a period of two years. If delivery under the emergency order is deferred, the required records must cover the period beginning with the receipt of the order and ending two months after the time for delivery or actual delivery (whichever is later), and must be preserved for a period of two years. The Director shall be entitled to obtain such information and require such reports and the keeping of such additional records by any person as may be necessary and appropriate in his discretion to the enforcement or administration of the provisions of this order.

(o) *Audits and inspections.* The Director shall be entitled to make such audits and inspections of the books, records, and other writings, premises or stocks of food of any person participating in any transaction with respect to which any priority rating issued hereunder applies, and to make such investigations as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(p) *Illegal use of priority rating.* No person shall claim or assert any priority rating for any contract or order for food unless such contract or order has priority under paragraphs (b) or (d) hereof, or has priority under paragraph (c) of this order as such paragraph (c) existed prior to the effective date of this amended order.

(q) *Petition for relief from hardship.* Any person affected by this War Food Order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may file a petition for relief with the Order Administrator. Such petition shall be addressed to the Administrator, War Food Order No. 71, Office of the Director, Office of Distribution, War Food Administration, Washington 25, D. C. The petition shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The filing of any such petition shall not excuse compliance with any of the provisions of this order unless the Director permits withholding of deliveries pending the disposition of the petition. The Order Administrator may take any action with reference to

such petition which is consistent with the authority delegated to him by the Director. If the petitioner is dissatisfied with the action taken by the Order Administrator on the petition, he may, by requesting the Order Administrator therefor, obtain a review of such action by the Director. The Director may, after such review, take such action as he deems appropriate, which action shall be final.

(r) *Violations.* The Director may prohibit any person who violates any provision of this order from receiving, making deliveries of, or using any material subject to priority or allocation control by the War Food Administrator. In addition, any person who wilfully violates any provision of this order is guilty of a crime, and may be prosecuted under any or all applicable laws including the Act of June 28, 1940, as amended by the Act of May 31, 1941 and Title III of the Second War Powers Act, 1942. Civil action may also be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(s) *Priorities regulations of the War Production Board superseded.* This order supersedes all priorities regulations of the War Production Board insofar as such priorities regulations apply to food.

(t) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Administrator, War Food Order 71, War Food Administration, Washington 25, D. C.

(u) *Delegation of authority.* The administration of this order, and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any person within the United States Department of Agriculture any or all of the authority vested in him by this order.

(v) *Territorial scope.* The provisions of this order shall apply to all persons in the United States, its territories and possessions, and the District of Columbia.

(w) *Effective date.* This order, as amended, shall be effective September 15, 1944. With respect to violations of said War Food Order 71, as amended, rights accrued or liabilities incurred prior to the effective date of this amendment, said War Food Order 71, as amended, shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

NOTE: All record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 11th day of September, 1944.

ASHLEY SELLERS,  
Assistant War Food Administrator.



# APPENDIX A—FORMS

1. Any contract bearing a priority rating of FR-10 conferred by paragraph (b) of War Food Order 71 (7 CFR § 1595.1 (b)) may contain substantially the following language:

This contract carries an automatic priority rating of FR-10 under the terms of paragraph (b) of War Food Order 71. That Order requires that deliveries under this contract be given priority over other dispositions bearing lower or no priority ratings.

2. Any contract or order bearing a priority rating conferred by the Director under paragraph (b) of War Food Order 71 (7 CFR § 1595.1 (b)) may contain substantially the following language:

This order (contract) bears a priority rat-

ing of FR----- under authorization No. -- issued to ----- by the Director of Distribution, War Food Administration, pursuant to War Food Order 71. Delivery on this order (contract) is required by War Food Order 71 to be given priority over dispositions bearing lower or no priority ratings.

3. The person authorized by this Order to use an extended priority rating under paragraph (d) of War Food Order 71 (7 CFR § 1595.1 (d)) on any written contract or order, shall attach substantially the following certificate:

## CERTIFICATE

This order (contract) bears a priority rating of FR-- under authorization No. ----- issued by the Director of Distribution, War

Food Administration. Delivery on this order (contract) must be given priority over dispositions bearing lower or no ratings. The undersigned hereby represents to the seller and to the War Food Administration that he is entitled to extend the above food priority rating and that such extension is in accordance with War Food Order 71, with the terms of which the undersigned is familiar.

Date -----

-----  
Name

-----  
Address

By -----  
Duly authorized officer

War Food Administration,  
Summary to WFO-71 Amendment 2.

## FOOD PRIORITY ORDER IS REVISED

The War Food Administration has clarified major provisions in its food priority order and reissued this order (formerly Food Distribution Regulation 1) as War Food Order 71. This revision makes no basic changes in methods by which priorities are issued by the War Food Administration, used in the purchase of food, and enforced.

Under this revised order, suppliers of foodstuffs still are required to accept priority rated purchase orders before they accept any other orders or contracts and to deliver on priority rated orders in preference to any other delivery, use or transfer of the food ordered by priority. Suppliers also are required to make arrangements to deliver on priority rated orders, even though there is no formal contract. Under War Food Order 71, a

priority rated order is binding on a supplier as soon as it is served by regular mail, registered mail, telegram, or personal service.

The priority order (WFO-71) was issued originally in March, 1943 to facilitate the procurement of food by government agencies as well as to place WFA in a position to authorize the use of priorities so that food can be obtained in emergency situations for essential civilian purposes.

The revised order, effective September 15, 1944, makes the following specific changes, primarily for purposes of clarification:

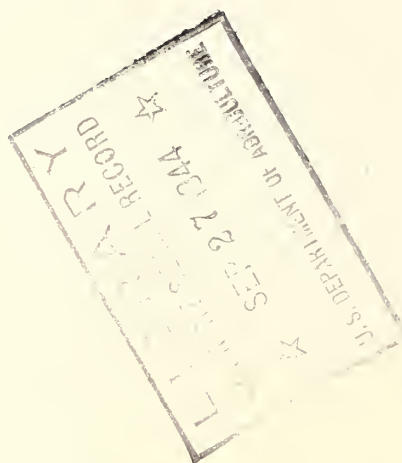
1. The Director of Distribution is authorized to assign priority ratings to any disposition of food—the transfer of title by sale, gift or any other means, and to the use of food in any process of production.

2. Under the original regulation, government agencies were authorized to use

an automatic FR-10 rating on all orders or contracts, except rationed foods or those set aside pursuant to provisions of War food orders issued by WFA. Under the amendment announced today, this automatic rating will only be used in those situations where the supplier enters into a contract placed by the government agencies named in WFO 71.

3. Agents or persons in possession of food which they do not own, and against which a priority order is placed, are required to reveal to the purchaser the name of the owner and to hold the food until the priority is withdrawn or the delivery is completed.

While efforts have been made to use priorities sparingly, WFA has found it necessary to grant them at times in order to obtain food for the armed services and for our allies and friendly nations. They will be used for U. S. civilians only in emergencies, and only after all other means of procuring food have been exhausted.



WAR FOOD ADMINISTRATION  
OFFICE OF DISTRIBUTION  
WASHINGTON 25, D. C.  

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OFFICIAL BUSINESS

Penalty for Private Use to Avoid Payment of  
Postage, \$300

F733F

WFO 71

AMDT. 4

MAR. 14, 1945

WAR FOOD ADMINISTRATION

[WFO 71, Amdt. 4]

PART 1595—FOOD PRIORITIES

FOOD PRIORITIES

Section 1595.1 (g) (2) of War Food Order 71, as amended (8 F.R. 2816, 7213; 9 F.R. 4321, 4319, 11253; 10 F.R. 103), is hereby amended to read as follows:

(2) If the person placing such order is unwilling or unable to pay prevailing market prices (but no more than any maximum price prescribed by the Office

of Price Administration) for the food ordered, or is unwilling or unable to meet regularly established terms of payment: *Provided*, That there shall be no discrimination against such orders in establishing such prices or terms.

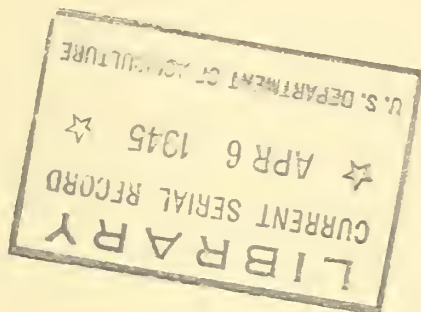
This amendment shall be effective March 16, 1945. With respect to violations of said War Food Order 71, as amended, rights accrued or liabilities incurred prior to the effective date of this amendment, said War Food Order 71, as

amended, shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 14th day of March 1945.

ASHLEY SELLERS,  
Assistant War Food Administrator.







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DEPARTMENT OF AGRICULTURE

WFO 71

TERMINATION  
APR. 10, 1947

[WFO 71, Termination]

PART 1595—FOOD PRIORITIES

TERMINATION OF ORDER

War Food Order No. 71, as amended  
(9 F. R. 11253; 10 F. R. 2886) is hereby  
terminated.

This order shall become effective at  
12:01 a. m., e. s. t., April 10, 1947. With  
respect to violations, rights accrued, lia-  
bilities incurred, or appeals taken prior  
to the effective date hereof, all provisions  
of said order shall be deemed to remain  
in full force and effect for the purpose  
of sustaining any proper suit, action, or

other proceeding with respect to any  
such violation, right, liability, or appeal.  
(E. O. 9280, Dec. 5, 1942, 7 F. R. 10179;  
E. O. 9577, June 29, 1945, 10 F. R. 8087)

Issued this 10th day of April 1947.

[SEAL]

CLINTON P. ANDERSON,  
*Secretary of Agriculture.*

